



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

NOV 19 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Zurich Insurance
1400 American Lane
Schaumburg, Illinois 60196

Re: Request for Information Pursuant to Section 104 of CERCLA
Gilt Edge Mine Site, Lawrence County, South Dakota
Nelson Tunnel/Commodore Waste Rock Pile, Creede, Colorado

Dear Sir or Madam:

This letter seeks your cooperation in providing information and documents relating to Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and CoCa Mines Inc., former owners and/or operators of the Gilt Edge Mine Superfund Site located in Lawrence County, South Dakota and/or the Nelson Tunnel/Commodore Waste Rock Pile Superfund Site. The United States Environmental Protection Agency (EPA) is writing this letter to you because we have information that indicates that your company or its predecessor, Maryland Casualty Company, issued liability insurance to at least one of these entities that may cover claims relating to releases of hazardous substances at the referenced sites. EPA is currently investigating the nature and extent of contamination and past operations at these Superfund sites.

Pursuant to the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure 1, attached hereto. EPA seeks your voluntary cooperation in this investigation. Your compliance with the Information Request is appreciated and is required by law. Please provide a complete and truthful response to this Information Request within **thirty (30) days** of your receipt of this letter. Section 104 of CERCLA, 43 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to meet that deadline or failure to respond adequately. In addition, providing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. Section 1001.



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*Ann review copy
green card
dated
12/1/10*

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This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501, et seq.

Your response to this request must be accompanied by a notarized certificate that is signed and dated by the person who is authorized by you to respond to this request. The notarized certificate must state that the response submitted to EPA is complete and contains all documents and information responsive to this request that are known to you following a complete and thorough review of all information and sources available to you. A suggested format for the notarized certificate is included with this request as Enclosure 2.

Your response to this Information Request should be mailed to:

Sharon Abendschan, Enforcement Specialist
U.S. EPA Region 8
Technical Enforcement Program, 8ENF-RC
1595 Wynkoop Street
Denver, Colorado 80202

If you have any questions relating to this Information Request, please contact Andrea Madigan, EPA Enforcement Attorney, at (303) 312-6904. Thank you for your cooperation in this matter.

Sincerely,



Kelcey Land, Director
Technical Enforcement Program,
Office of Enforcement, Compliance,
And Environmental Justice



Matthew Cohn, Supervisory Attorney
Legal Enforcement Program,
Office of Enforcement, Compliance,
And Environmental Justice

Enclosure

INFORMATION REQUEST
Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it corresponds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, as amended, 42 U.S.C. § 9604(e)(7)(E) and F, Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), and 40 C.F.R. 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, 41 Fed. Reg. 36,902 (1976) (amended at 43 Fed. Reg. 40,000 (1978), and 50 Fed. Reg. 51,661 (1985)). If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
6. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. Section 9601 et seq., RCRA, 42 U.S.C. Section 6901 et seq., or Volume 40 of the Code of Federal Regulations (CFR), in which case such statutory or regulatory definitions shall apply.
7. Identify the person(s) answering these Questions on behalf of Respondent.

8. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.

9. For each and every Question contained herein, identify documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide accurate copies of all such documents.

10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents they may have.

11. For each and every Question contained herein, if information or documents responsive to this Information Request are not in your possession or control, then identify the persons from whom such information or documents may be obtained.

Definitions

The following definitions shall apply to the following words as they appear in this Enclosure 1:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, predecessors, successors, assigns, and agents.

2. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

3. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

QUESTIONS

1. Please provide copies of all casualty, liability and/or pollution insurance policies brokered by Respondent (or Respondent's predecessors) and issued to Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., from 1960 to present, including but not limited to comprehensive general liability, primary, umbrella and excess policies, as well as any environmental impairment liability or pollution legal liability insurance.

2. If there are any casualty, liability and/or pollution insurance policies brokered by Respondent (or Respondent's predecessors) and issued to Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., from 1960 to present of which you have any evidence, or are aware, but have no copies, identify each such policy to the best of your ability by identifying:

- a. The name and address of each insurer and of the insured;
- b. The type of policy and policy numbers;
- c. The per occurrence or per accident policy limits of each policy; and
- d. The commencement and expiration dates of such policy.

3. To the extent not identified in Questions 1 or 2 above, provide all other evidence of casualty, liability and/or pollution insurance issued to Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., from 1960 to present.

4. For each policy of insurance identified in Questions 1, 2 or 3 above, provide copies of all underwriting files, claim files, loss control files, and premium audits, as well as any accounting records including retrospective rating adjustments, for each such policy.

5. Please provide all documents and files that constitute, evidence, refer, or relate to claims made by Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., under any of the policies identified in Questions 1, 2 or 3.

6. Identify all previous settlements involving Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., which relate in any way to environmental liabilities and/or to casualty, liability and/or pollution insurance coverage, including :

- a. The date of the settlement;
- b. The scope of release provided under such settlement;
- c. The amount of money paid pursuant to such settlement.

7. Provide copies of all settlement agreements identified in response to Question 6.

8. Identify any other insurance agencies or brokerage firms that placed any casualty, liability and/or pollution insurance policies issued to Congdon and Carey, Congdon and Carey Ltd 3, Congdon and Carey Ltd 5, Minerals Engineering Company, and/or CoCa Mines Inc., from 1960 to present. Include the name, address, telephone number and time period when the agency placed such insurance.

NOTARIZED CERTIFICATE

I, _____, having been duly sworn and being of legal age, hereby state:

1. I am the person authorized by _____ to respond to the Environmental Protection Agency's (EPA's) request for information concerning the Gilt Edge Mine Site in Lawrence County, South Dakota and the Nelson Tunnel/Commodore Site in Creede, Colorado .
2. I have made a complete and thorough review of all documents, information, and sources relevant to the request.
3. I hereby certify that the attached response to EPA's request is complete and contains all information and documents responsive to the request.

(SEAL)

(Signature) (Name, Title)
Subscribed and sworn to me
this __ day of _____, 2010.

Notary Public
My Commission Expires:
My address is:



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Paper

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Zurich Insurance
1400 American Lane
Schaumburg, Illinois 60196

2. Article Number
(Transfer from service label)

7009 3410 0000 2593 8801

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Andrew Pietka

☐ Agent☐ Addressee

B. Received by (Printed Name)

ANDREW PIETKA

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

DEC 01 2010

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

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OFFICIAL USE

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(Endorsement Required)Restricted Delivery Fee
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Total Postage & Fees \$

Postmark
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Zurich Insurance
1400 American Lane
Schaumburg, Illinois 60196

PS Form 3800, August 2005

See Reverse for Instructions